

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**JEFF BROWN, and SHERRI
GOTHIER, Individually and as Co-
Special Administrators of the Estate
of KB, Deceased,**

Plaintiffs,

v.

**PROVIDENCE MEDICAL CENTER
(Wayne, Nebraska), MERCY
MEDICAL CENTER, Sioux City,
MERCY MEDICAL SERVICES, and
MERCY HEALTH SERVICES, Iowa,
Corp.,**

Defendants.

CASE NO. 8:12CV31

**AMENDED
ORDER**

This matter is before the Court on the Motion for Attorney Fees, Costs and Expenses and Motion to Stay, Pending Payment (Filing No. 28) filed by Defendant Mercy Medical Services (“MMS”), and the Motion for Attorney Fees, Costs and Expenses and Motion to Stay, Pending Payment (Filing No. 34) filed by the Defendant Providence Medical Center (“PMC”). In a case related to the present action, *Brown et al. v. Providence Medical Center et al.*, 8:10CV230, the Court granted the Plaintiffs’ Motion for Voluntary Dismissal “without prejudice to the Plaintiffs’ filing of the action at a later date.” (*Id.* at Filing No. 196.) The Court conditioned the refiling of any claim that had been presented in that case on the Plaintiffs paying the “Defendants’ reasonable attorney fees, costs, and expenses incurred in the defense of [that case] if” the Plaintiffs refiled any claim presented in that case in a new action. (*Id.*)

In their Motions, MMS and PMC assert that the Plaintiffs have refiled claims that they presented in the voluntarily dismissed case. MMS and PMC now seek to recover their reasonable attorney fees, costs, and expenses incurred in defending the voluntarily

dismissed case, and request that the present action be stayed until they receive payment of those fees, costs and expenses.

The Plaintiffs have in fact filed claims in the present action that are the same as those the Plaintiffs filed in the related case that was voluntarily dismissed. Accordingly,

IT IS ORDERED:

The Defendants' Motions for Attorney Fees, Costs and Expenses and Motion to Stay, Pending Payment (Filing Nos. 28, 34) are granted, in part, as follows:

The above-captioned action is stayed pending resolution of the Defendants'

Motions for Attorney Fees, Costs and Expenses; and

The Court will defer ruling on the Motions for Attorney Fees, Costs, and Expenses, pending the receipt of all briefs and evidentiary submissions of the parties.

DATED this 8th day of March, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge